

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Brandon J. Lunn,) Civil Action No.: 5:12-2706-MGL
)
 Plaintiff,)
)
 vs.)
)
 Sgt. Ragland, Lt. Robertson,) **ORDER AND OPINION**
)
)
 Defendants.)
)

ORDER AND OPINION

Plaintiff Brandon J. Lunn (“Plaintiff”) is an inmate at Perry Correctional Institution (“PCI”) in Pelzer, South Carolina). On September 20, 2012, Plaintiff proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. (ECF No. 1.) Plaintiff also filed a Motion for Temporary Restraining Order on October 26, 2012. (ECF No. 18.) Defendants oppose Plaintiff’s Motion for a Temporary Restraining Order. (ECF No. 29.)

In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling. On January 23, 2013, Magistrate Judge West issued a Report and Recommendation recommending that the court deny Plaintiff's motion for a Temporary Restraining Order. (ECF No. 34.) The Magistrate Judge indicated *inter alia* that Plaintiff failed to show that he was likely to succeed at trial and failed to show that he would suffer irreparable harm in the absence of preliminary relief.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The court may also receive further evidence or recommit the matter to the Magistrate

Judge with instructions. *Id.* The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objections are made. On January 23, 2013, Plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 34-1). However, he has not done so. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is approved and incorporated herein by reference. Plaintiff's motion for a Temporary Restraining Order is DENIED.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
February 28, 2013